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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1H-2005-605

ALFREDO AMMAY FAJAYAN, R.C.P.
2900 Brunswick Circle
Corona, CA 91719

A C C U S A T I O N

Respiratory Care Practitioner License No. 11984

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about September 8, 1988, the Respiratory Care Board issued Respiratory Care Practitioner License No. 11984 to ALFREDO AMMAY FAJAYAN, R.C.P. (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2010, unless renewed.

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4. Section 3710 of the Code states: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“(c) Knowingly employing unlicensed persons who present themselves as licensed respiratory care practitioners.

“(h) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter.

“(i) The aiding or abetting of any person to engage in the unlawful practice of respiratory care.

“(j) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a respiratory care practitioner.

6. Section 3761 of the Code states:

“(a) No person may represent himself or herself to be a respiratory care practitioner without a license granted under this chapter, except as otherwise provided in this chapter.

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1 himself or herself out to be a respiratory care practitioner without a license granted under
2 this chapter, except as otherwise provided in this chapter.”

3 7. California Code of Regulations, title 16, section 1399.370, states:

4 “For the purposes of denial, suspension, or revocation of a license, a crime or act
5 shall be considered to be substantially related to the qualifications, functions or duties of
6 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee
7 to perform the functions authorized by his or her license or in a manner inconsistent with
8 the public health, safety, or welfare. Such crimes or acts shall include but not be limited
9 to those involving the following:

10 “(a) Violating or attempting to violate, directly or indirectly, or assisting or
11 abetting the violation of or conspiring to violate any provision or term of the Act.

12 “....”

13 COST RECOVERY

14 8. Section 3753.5, subdivision (a) of the Code states:

15 "In any order issued in resolution of a disciplinary proceeding before the board,
16 the board or the administrative law judge may direct any practitioner or applicant found to have
17 committed a violation or violations of law to pay to the board a sum not to exceed the costs of
18 the investigation and prosecution of the case."

19 9. Section 3753.7 of the Code states:

20 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
21 include attorney general or other prosecuting attorney fees, expert witness fees, and other
22 administrative, filing, and service fees."

23 10. Section 3753.1, subdivision (a), of the Code states:

24 "An administrative disciplinary decision imposing terms of probation may
25 include, among other things, a requirement that the licensee-probationer pay the monetary costs
26 associated with monitoring the probation. "

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Knowingly Employing An Unlicensed Person)**

3 11. Respondent is subject to disciplinary action under section 3750,
4 subdivision (c), of the Code, in that he knowingly employed unlicensed persons who presented
5 themselves as licensed respiratory care practitioners. The circumstances are as follows:

6 (a) At all times relevant, respondent was the sole owner of a company called
7 Bio-Care Pulmonary Services, Inc.;

8 (b) At all times relevant, respondent was solely responsible for hiring,
9 scheduling and paying employees of Bio-Care Pulmonary Services, Inc.;

10 (c) Respondent's company, Bio-Care Pulmonary Services, Inc., contracts with
11 health care facilities to provide respiratory care services;

12 (d) One of the health care facilities that respondent's company, Bio-Care
13 Pulmonary Services, Inc., provided respiratory care services to was Buena Park Nursing Center;

14 (e) Respondent's company, Bio-Care Pulmonary Services, Inc., provided
15 respiratory care services to Buena Park Nursing Center from on or about late 2004, to on or
16 about late 2005;

17 (f) On or about June of 2005, respondent personally hired Eliser Nalica
18 [d.o.b. 8/17/1971]., to provide respiratory care therapy services on behalf of his company, Bio-
19 Care Services, Inc.;

20 (g) At no time was Nalica licensed to practice respiratory care in the State of
21 California;

22 (d) On or about July of 2005, respondent personally hired Joselito Alonso
23 [d.o.b. 9/2/71], to provide respiratory care therapy services on behalf of his company, Bio-Care
24 Services, Inc.;

25 (e) At no time was Alonso licensed to practice respiratory care in the State of
26 California;

27 (f) Both Nalica and Alonso provided respiratory care services for
28 respondent's company, Bio-Care Services, Inc., until on or about August 25, 2005.

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